

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Etowah County Communications District E-911) Call Sign WQNG938
Request for Waiver of Section 1.946 of the)
Commission's Rules)

ORDER

Adopted: November 4, 2019

Released: November 4, 2019

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

1. On February 20, 2019, the Public Safety and Homeland Security Bureau (Bureau) notified Etowah County Communications District E-911 (Etowah or the County) that it had placed station WQNG938 on Termination Pending status because the County failed to meet the construction and construction notification requirements required by the Commission's rules.1 On April 8, 2019, the County filed a Petition for Reconsideration of the notice of termination of its license.2 We dismiss the Petition as untimely.

2. Section 1.106(f) of the Commission's rules requires that a petition for reconsideration "shall be filed within 30 days from the date of public notice of the final Commission action..."3 Thus, March 22, 2019 was the filing deadline for the County to file a reconsideration petition, however, the County did not file its Petition until April 8, 2019. Because the Petition does not meet the requirements of Section 1.106(f), we must dismiss it as untimely.4

3. If the County desires to continue operating under the parameters formerly set forth under call sign WQNG938, it must file a new, properly coordinated application. In addition, if the County needs to operate while the application is pending with the Commission, it must immediately file a request for special temporary authority in accordance with Section 1.931 of the Commission's rules.5

4. Accordingly, IT IS ORDERED, pursuant to the authority of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), Section 1.106 of the Commission's Rules, 47 CFR §1.106, and Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a), that the Petition for Reconsideration filed by the Etowah County Communications District E-911 on April 8, 2019, IS DISMISSED.

1 See Auto Termination Letter, Reference Number: 6461731 (dated Feb. 20, 2019) (Auto Termination Letter). As a condition of its authorization, the Commission's rules required the County to construct its station, Call Sign WQNG938, by Jan. 12, 2019. 47 CFR § 1.946.

2 Petition for Reconsideration filed April 8, 2019 by Etowah County Communications District E-911 (Petition).

3 47 CFR §106(f).

4 47 CFR § 1.106(f) is based on Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a). Other than in circumstances not present here, this statutory requirement cannot be waived. See Reuters Ltd. v. FCC, 781 F2d 946, 951-952 (D.C.Cir.1986).

5 See 47 CFR § 1.931.

5. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's Rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau